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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,880	01/24/2001	Bertrand A. Damiba	BVOC001	5478

7590 05/14/2003
BE VOCAL
685 CLYDE AVENUE
MOUNTAIN VIEW, CA 94043-2213

EXAMINER

SMITS, TALIVALDIS IVARS

ART UNIT	PAPER NUMBER
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2654

DATE MAILED: 05/14/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/769,880

Applicant(s)

Bertrand A. Damiba

Examiner

Talivaldis Ivars Smits

Art Unit

2654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: The Application Number of the related application (unnumbered page 1) is missing, as are the page numbers. Appropriate correction is required.

Information Disclosure Statement

2. The references in the IDS have been considered except for the Japanese reference 8274680, for which no abstract nor other information was received.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The key process of "tuning", critical or essential to the practice of the invention, is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

The instant application pertains to “adaptive tuning of recognition mechanisms”, the neologism “tuning” describing a process whose results for a speech recognizer are that its software “representations become unitized or chunked into coherent recognition codes through experience” (unnumbered page 2). Thus, independent claim 1 recites “tuning the speech recognition process utilizing the information and the transcriptions”, the corresponding computer product claim 6 recites “computer code for tuning the speech recognition utilizing the information and transcriptions”, and the corresponding system claim 11 recites “logic for tuning the speech recognition process utilizing the information and the transcriptions.” Dependent claims 4, 5, 9, 10, 14, and 15 recite that the “tuning” is done “by performing experiments based on the information” which “includes a recognition result”.

Unfortunately, while the Specification contains an excellent and informative summary on manual adaptation of software by a programmer, nowhere therein is any indication how this apparent “tuning” process can be done automatically, on the basis of the recognition results and the transcriptions, without the need for undue experimentation. There are only the same vague and indefinite references to “performing experiments based on the information” using a mysterious “vocal tuner 508” (unnumbered page 20), which “leverages the distributed architecture of the world-wide-web” (unnumbered page 21). Thus the claimed invention lacks enablement, and only recites a wished-for result of automatic “tuning”.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The "tuning" process terminology is not art-standard for the speech recognition art and thus is vague and indefinite. For, on one hand this "tuning" seems to modify the recognizer software (suggested by the above-cited chunks of "coherent recognition codes"), on the other hand it seems to only modify the word models of the speech recognizer (suggested by the above-cited "leveraging" of transcriptions received from various users utilizing the world-wide-web). But, then again, the discussion on page 22 suggests that the "reference vectors" for the words are not adapted at all, but only the minimum distance rejection threshold is changed as function of ambient noise. Is this noise-level threshold-adaptation what the "tuning" is supposed to be, and, if so, what does it have to do with said chunks of "coherent recognition codes" beyond changing a single stored default thresholding parameter? So, what is this "tuning" that is being claimed?

Due to this vagueness and indefiniteness of the claimed invention, no prior art search could be made, of course.

Conclusion

7. **Any response to this action should be mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
(non-fee Amendments should be directed to: Mail Stop Non-Fee)

or FAXed to:

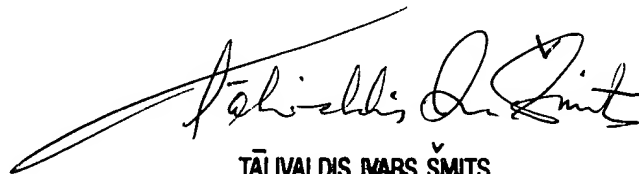
(703) 872-9314 (please label *formal* communications
"OFFICIAL"; please label *informal* or draft communications,
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park 2, 2121 Crystal Drive,
Arlington, VA, Sixth Floor (Receptionist).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Talivaldis Ivars Smits, whose telephone number is (703) 306-3011. The examiner can normally be reached Mondays-Fridays from 8:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold, can be reached on (703) 305-4379. The facsimile phone number for Technology Center 2600 is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 2600 customer service, whose telephone number is (703) 306-0377.



TĀLIVALDIS IVARS ŠMITS
PRIMARY EXAMINER